

Specifically, the action does not (construe or) compare any of claims 1-32 of the '458 patent to any of the rejected claims, other than to conclude that "the claims are not patentably distinct." Action at p. 4. Furthermore, the action neither identifies the differences between claims 1-32 of the '458 patent and the rejected claims, nor how those differences are such that the rejected claims are nevertheless obvious over claims 1-32 of the '458 patent. Consequently, and on this basis alone, the applicants respectfully request reconsideration and withdrawal of the obviousness-type double patenting rejection.

Notwithstanding whether the action sets forth a *prima facie* case demonstrating that claims 1-32 of the '458 patent either anticipate or render obvious the pending claims in this application, the rejection is moot in view of the terminal disclaimer that is submitted herewith.

CONCLUSION

In view of the foregoing, consideration of the appended declaration and the terminal disclaimer, reconsideration and withdrawal of the outstanding rejections, and allowance of all pending claims 1-12, 14-17, 39, 40, and 54-67 are respectfully requested.

Should the examiner wish to discuss the foregoing, or any matter of form or procedure in an effort to advance this application to allowance, the examiner is urged to contact the undersigned attorney.

Respectfully submitted,

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